

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Gary C. Johnson

Appl. # : 10 / 021,656,  
Appl. filed : 12/12/01

Art Unt : 3681

**REMARKS - A**

In response, to the Office Action of; 10 -24 -05:

- (1) The examiner continues to ignore the "DECISION ON PETITION" of; May 14, 04, last paragraph of first page, which states;

"The examiner erred in refusing to enter the added section (paragraphs) to the specification.

The section applicant wishes added is not a substitute specification. Therefore the amendment to the specification does not fall under 37 CFR 1.125 and does not require a marked up copy."

The applicant was never informed that his application was missing a required part; the Detailed Description of the "Invention" (A new; "Statement of Irreparable Damage" is enclosed), and / or of; an incorrect title. The "new" description wasn't required to have a marked up copy as would be needed of; a substitute or replacement paragraph or section.

- (2) According to; MPEP-2163 Guidelines for the Examination of Patent Applications, sec.-II(B), and sec.-(C)(1), "For Each Claim Drawn to a Single Embodiment or Species," "If a complete structure is disclosed, the written description requirement is satisfied for that species or embodiment, and a rejection under 35 U.S.C. 112, para. 1, for lack of written description must not be made."

Therefore, the written description requirement; should not have interfered with prosecution.

Based on the above remarks; (1) and (2) the examiner has again wrongfully hindered the prosecution of the application, and continues to cause undue burden on the applicant and the USPTO.

## REMARKS – B

- (1) First of all, it must be clarified that the examiner has misquoted the applicant on; page-5 of the Office Action of; 10/24/05, second paragraph. It is “not” stated by the applicant anywhere that, the invention has “a function where an axle was rotated at 0 rpm.” the applicant mentioned an instituted circumstance; wherein a particular axle wasn’t being rotated, hence; 0 rotation/rpm.
- (2) Secondly, on page-5 of the same OA (10/24/05), second paragraph, the examiner states; that “The original disclosure also did not state that the input shaft 19 had “a smooth rounded inner surface throughout it’s central stock” and such is not clear from the drawing.” The new description mentions; axle 5 being rotatively entered through shaft 19. Furthermore, the original disclosure did not mention whether, shaft 19 did or didn’t have “a smooth rounded inner surface,” which, is neither inclusive nor exclusive of it having one. Pertaining again to the shaft 19’s smooth inner surface, the examiner also stated; “and such is not clear from the drawing. This is absolutely false. There are no lines of invisibility along the shaft 19 that shows any correlation with axle shaft 5. They are “coaxial.” The examiner’s argument seems to be more than just objective. The two particulars mentioned by the examiner both combined, if unchallenged would; render the applicants invention inoperable.
- (3) Concerning the “outward protruding axial stock” mentioned by the examiner on; page-5 of OA of; 10/24/05. It was an obvious error of the applicant to have left it out. The references sent by the applicant, were not for the purpose of inherency but, to show obviousness. All differential drive cases have the said support stock. The applicant is relying on MPEP-2163 sec.-II, MPEP-2141.03, and MPEP-706.03. Furthermore, in the very reference that the examiner cited as relied on (5,176,589-Borguidd), the support stock isn’t numbered. The said support stock / protruding axial stock isn’t always numbered. It’s often considered an integral feature (not a part).

## REMARKS – C

Concerning; the “Replacement” Drawing:

- (1) the lines of invisibility added to axle shaft 5 which corresponds to the shaft of bevel gear 12; is of the original disclosure, see; lines 7 and 8 of; Detailed Description of the “Drawing.” Wherein is stated; “A bevel gear 12 being splined to axle shaft 5.”

The same information is also in the new description, see; Detailed Description of the “Invention,” see; page-2, lines 9 and 10. Wherein is stated; “The bevel gear 12 is splined / stationary to the axle shaft 5.”

This error had already been traversed (twice), and because; the examiner objected to the drawing corrections completely, I have reinstated “all” drawing corrections again.

Concerning; the Inherent Functions, Theories or Advantages ( MPEP-2163.079(a) ).

The applicant need not incorporate by; inherency that, which is already contained in the same application. Neither, does the applicant need to justify what is merely a further description of what is already contained in the application. However, to further secure the original filing date the inherent functions, theories and advantages and where they can be found are listed below.

(A) In the published Non-Provisional application (10/021,656), in the text of;

**BACKGROUND OF THE INVENTION** is mentioned:

para. [0003]; the new differential “can use all gears for drive force,” para [0004]; the “new differential provides positive rotation to each axle section of a vehicle, under all road conditions, when the vehicle is on a level surface,” para. [0005]; the new differential “only allowing inversely proportional rotation,” and para. [0006] mentions; the “anti rollback” feature of the said differential.

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Appl. filed: 12-12-01

Art Unit: 3681

Applicant: Gary C. Johnson

Examiner: Dirk Wright

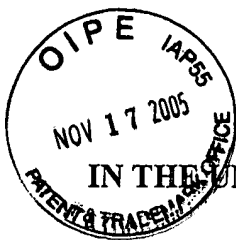
REQUESTS

- (1) The first request is that this application be processed immediately, considering that examiner's response / OA of; 10-24-05, was completely frivolous. The applicant showed in three separate and distinct ways that the processing of his application was hindered needlessly. *DLH*

Furthermore, the application is on its fifth response, which requires supervised attention.

- (2) The examiner has on every occasion to date failed to conclude this application and in fact has done more to hinder than help.
- (3) The examiner; in the 4<sup>th</sup> Office Action of; 6-28-2005 deemed the applicant's invention "Non-Obvious" which makes it patentable over prior art, and therefore, the application is "Special" and expediency is expected as required.
- (4) I request that the Provisional application # 60/254,901, be reinstated and for the record of same to; reflect that said provisional application in fact has not expired. See; Transaction History of; "Continuity Data" of; 8-31-03 which, lists Provisional application as "EXPIRED." There is no statutory basis wherein; a Provisional application can expire while the application that claims benefit to the said Provisional application, is still pending.

In the preamble of my claims (15 and 16), I stated that my differential invention eliminates the need for "all" other Differentials and traction control systems. It can not be claimed if it weren't so because; the "Preamble" (opening paragraph) is a part of the claims. Neither was it disputed by the examiner. It is an extremely valuable invention.



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### Statement of – Incorporation by Reference

There is an (two) ADS form(s) already on file in the application as required for incorporation by reference when and where, there is no specific reference cited in a previously filed application.

The Provisional application # 60/254,901, listed as “expired” has been requested reinstated per this communication, see; the “REQUESTS” page. There is no statutory basis wherein, a Provisional application expires before the application which claims benefit to the said Provisional application, is still pending.

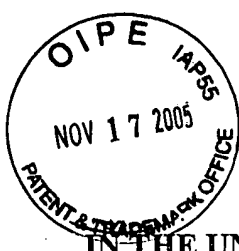
The applicant makes incorporation by reference using; figures 2-A and 2-B of Provisional application # 60/254,901, to application 10/021,656 of:

- (1) the “outward protruding axial stock” (support stock) of; figures 2-A and 2-B which, was previously objected to by the examiner on; page-2 of OA 10/24/05.

Gary C. Johnson

signature, Gary C. Johnson

date, 11 - 14 - 05



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**STATEMENT OF IRREPARABLE DAMAGE**

The applicant wasn't ever informed that his application (10/021,656), never contained a;  
Detailed Description of the Invention, nor of his drawing errors, see; first and second OA.

The applicant's first claim wasn't drafted for him; according to MPEP-707.07(j),  
which resulted in an excessive overage of time.

The examiner prematurely sent the applicant a "Final Rejection" on the third OA which,  
caused the applicant to revert to a patent appeal, which, resulted in a 20 month period between  
the OA of; 10/16/03 and the OA of; 6/28/05 See; DECISION ON PETITION of; May 14, 2004 and  
the decision of; March 30, 2005.

The applicant mentions again; as in the first "Statement of Irreparable Damage" The applicant  
had sent copies of his Provisional patent application simultaneously to; Ford and Daimler-Chrysler  
in March of; 2001, after confirmation of receipt of said; Provisional patent application.

Gary C. Johnson

signature: *Gary C. Johnson*

date: 11 - 14 - 05



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## 706.03 Rejections Not Based on Prior Art - 700 Examination of Applications

### 706.03 Rejections Not Based on Prior Art

The primary object of the examination of an application is to determine whether or not the claims are patentable over the prior art. This consideration should not be relegated to a secondary position while undue emphasis is given to nonprior art or "technical" rejections. Effort in examining should be concentrated on truly essential matters, minimizing or eliminating effort on technical rejections which are not really critical. Where a major technical rejection is proper (e.g., lack of proper disclosure, undue breadth, utility, etc.) such rejection should be stated with a full development of the reasons rather than by a mere conclusion coupled with some stereotyped expression.

Rejections based on nonstatutory subject matter are explained in **MPEP § 706.03(a)**, **§ 2105**, **§ 2106 - § 2106.02**, and **§ 2107 - § 2107.02**. Rejections based on subject matter barred by the Atomic Energy Act are explained in **MPEP § 706.03(b)**. Rejections based on duplicate claims are addressed in **MPEP § 706.03(k)**, and double patenting rejections are addressed in **MPEP § 804**. See **MPEP § 706.03(o)** for rejections based on new matter. Foreign filing without a license is discussed in **MPEP § 706.03(s)**. Disclaimer, after interference or public use proceeding, *res judicata*, and reissue are explained in **MPEP § 706.03(u)** to **§ 706.03(x)**. Rejections based on 35 U.S.C. 112 are discussed in **MPEP § 2161 - § 2174**. IF THE LANGUAGE IN THE FORM PARAGRAPHS IS INCORPORATED IN THE OFFICE ACTION TO STATE THE REJECTION, THERE WILL BE LESS CHANCE OF A MISUNDERSTANDING AS TO THE GROUNDS OF REJECTION.

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**KEY:** =online business system =fees =forms =help =laws/regulations =definition (glossary)

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*note: also see MPEP-706*

*note: an invention must first be known/understood to work before a search is done*



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WASHINGTON, D.C. 20231  
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Bb Data Sheet

CONFIRMATION NO. 4604

<b>SERIAL NUMBER</b> 10/021,656	<b>FILING DATE</b> 12/12/2001 <b>RULE</b>	<b>CLASS</b> 475	<b>GROUP ART UNIT</b> 3681	<b>ATTORNEY DOCKET NO.</b>						
<b>APPLICANTS</b> Gary Carlton Johnson, Columbus, OH; <b>** CONTINUING DATA *****</b> THIS APPLN CLAIMS BENEFIT OF 60/254,901 12/12/2000 <i>Yes</i> <b>** FOREIGN APPLICATIONS *****</b> <i>None</i> <b>IF REQUIRED, FOREIGN FILING LICENSE GRANTED.. SMALL ENTITY **</b> <b>** 01/30/2002</b>										
Foreign Priority claimed <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 35 USC 119 (a-d) conditions met <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Met after Allowance Verified and Acknowledged <i>[Signature]</i> Examiner's Signature <i>[Signature]</i> Initials <i>[Initials]</i>		<b>STATE OR COUNTRY</b> OH	<b>SHEETS DRAWING</b> 1	<b>TOTAL CLAIMS</b> 3	<b>INDEPENDENT CLAIMS</b> 3					
<b>ADDRESS</b> Gary C. Johnson P.O. Box 10855 Columbus, OH 43201										
<b>TITLE</b> Johnson - positive action continuous traction (p.a.c.t) vehicle differential										
<b>FILING FEE RECEIVED</b> 435	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following: <table border="1"> <tr><td><input type="checkbox"/> All Fees</td></tr> <tr><td><input type="checkbox"/> 1.16 Fees ( Filing )</td></tr> <tr><td><input type="checkbox"/> 1.17 Fees ( Processing Ext. of time )</td></tr> <tr><td><input type="checkbox"/> 1.18 Fees ( Issue )</td></tr> <tr><td><input type="checkbox"/> Other _____</td></tr> <tr><td><input type="checkbox"/> Credit _____</td></tr> </table>				<input type="checkbox"/> All Fees	<input type="checkbox"/> 1.16 Fees ( Filing )	<input type="checkbox"/> 1.17 Fees ( Processing Ext. of time )	<input type="checkbox"/> 1.18 Fees ( Issue )	<input type="checkbox"/> Other _____	<input type="checkbox"/> Credit _____
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